

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Case No. 15-cr-16-pp

Plaintiff,

v.

ORLANDO MEDINA,
a/k/a ALEJANDRO PAGAN,

Defendant.

**ORDER DENYING DEFENDANT'S *PRO SE* REQUEST FOR AN EVIDENTIARY
HEARING (DKT. NO. 71)**

On February 3, 2015, the defendant was indicted by a federal grand jury. Dkt. No. 1. He first appeared in court on March 24, 2015. Dkt. No. 4. He has been in custody since that time.

The defendant first was represented by Attorney John Campion of Federal Defender Services; on October 23, 2015, however, the court received a letter from the defendant, asking for a new attorney. Dkt. No. 31. The court granted that request on November 9, 2015. Dkt. No. 32. On November 20, 2015, attorney John Birdsall was appointed to represent the defendant. Dkt. No. 33. He has represented the defendant ever since.

Since being appointed, Attorney Birdsall has filed at least one motion to adjourn the trial (dkt. no. 35), and several motions to adjourn status/bail hearings (dkt. nos. 53, 59, 61). In addition, both counsel for the defendant and counsel for the government have asked the court to continue status

conferences to give the government the opportunity to provide the defense with numerous items the defense requested, including (a) the opportunity to have various Spanish recordings translated; (b) fingerprint information; (c) and information about alleged corruption on behalf of law enforcement officers whom the defense alleged were involved in the investigation/arrest of the defendant in Puerto Rico. The court granted a number of adjournments, until finally, on August 15, 2017, the court told counsel that it was setting the case for trial. Dkt. No. 67. The court conferred with the parties concerning its own trial schedule and the trial schedules of the lawyers; the first date that worked for everyone—including defense counsel—was January 8, 2018. Id.

Meanwhile, despite being represented by an attorney, the defendant has regularly and frequently communicated directly with the court. See dkt. no. 38 (letter received January 11, 2016); dkt. no. 41 (letter received March 9, 2016); dkt. no. 56 (motion for bond received March 1, 2017); dkt. no. 68 (motion to dismiss charges received August 25, 2017); dkt. no. 69 (letter received August 30, 2017). On September 20, 2017, the court received yet another letter from the defendant. Dkt. No. 71. In this letter, he indicates that he wants to speak with the court in person, and that he wants an evidentiary hearing, to prove that he is innocent before the scheduled January 8, 2018 trial date. Id.

The court will not schedule an evidentiary hearing. First, the deadline for the defendant to file the kind of pretrial motion that would require an evidentiary hearing has long passed. Second, an evidentiary hearing is not a hearing where someone proves his or her innocence—it is a hearing where

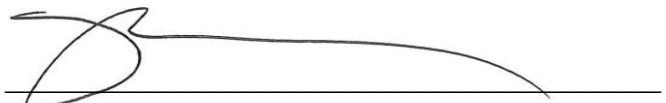
someone can challenge certain evidence, such as confessions or evidence seized during a search. Third, the defendant *has a lawyer*. When a person is represented by a lawyer, it is the lawyer's job to communicate with the court on that person's behalf. As the court has said several times in the past—including to the defendant—if he wants his lawyer to take certain actions in his case, he should discuss his desires with his lawyer.

The defendant will have the opportunity to challenge the evidence against him—that is the purpose of the January 8, 2018 trial.

The court **DENIES** the defendant's *pro se* motion for an evidentiary hearing. Dkt. No. 71.

Dated in Milwaukee, Wisconsin this 25th day of September, 2017.

BY THE COURT:

A handwritten signature in black ink, appearing to be 'P. Pepper', written over a horizontal line.

HON. PAMELA PEPPER
United States District Judge